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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7
8 ANGELO FERGUSON,

9 Plaintiff,

10 v.

11 MJ34 WRITE-UP, *et al.*,

12 Defendants.
13

Case No. 2:24-cv-02024-RFB-DJA

ORDER

14 Plaintiff Angelo Ferguson brings this civil-rights action under 42 U.S.C. § 1983 to redress
15 constitutional violations that he claims he suffered while incarcerated at Ely State Prison. (ECF
16 No. 8). On February 12, 2025, this Court ordered Ferguson to either pay the full \$405 filing fee or
17 apply to proceed *in forma pauperis* by March 14, 2025. (ECF No. 9). That deadline expired without
18 payment of the filing fee, a complete *in forma pauperis* application, or other response from
19 Ferguson.

20 **I. DISCUSSION**

21 District courts have the inherent power to control their dockets and “[i]n the exercise of
22 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
23 Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may
24 dismiss an action based on a party’s failure to obey a court order or comply with local rules. See
25 Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply
26 with local rule requiring pro se plaintiffs to keep court apprised of address); Malone v. U.S. Postal
27 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In
28 determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the

1 public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
2 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
3 their merits; and (5) the availability of less drastic alternatives. See In re Phenylpropanolamine
4 Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone, 833 F.2d at 130).

5 The first two factors, the public's interest in expeditiously resolving this litigation and the
6 Court's interest in managing its docket, weigh in favor of dismissal of Ferguson's claims. The third
7 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
8 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court
9 or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
10 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
11 the factors favoring dismissal.

12 The fifth factor requires the Court to consider whether less drastic alternatives can be used
13 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish
14 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
15 alternatives *before* the party has disobeyed a court order does not satisfy this factor); accord
16 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts "need not exhaust every
17 sanction short of dismissal before finally dismissing a case, but must explore possible and
18 meaningful alternatives." Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986). Because
19 this Court cannot operate without collecting reasonable fees, and litigation cannot progress without
20 Ferguson's compliance with the Court's orders, the only alternative is to enter a second order
21 setting another deadline. But repeating an ignored order often only delays the inevitable and further
22 squanders the Court's finite resources. The circumstances here do not indicate that this case will
23 be an exception. Setting another deadline is not a meaningful alternative given these
24 circumstances. So, the fifth factor favors dismissal.

25 II. CONCLUSION

26 Having thoroughly considered these dismissal factors, the Court finds that they weigh in
27 favor of dismissal.
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1 Therefore, **IT IS ORDERED** that this action is **DISMISSED without prejudice** based on
2 Angelo Ferguson's failure to address the matter of the filing fee in compliance with this Court's
3 February 12, 2025 Order. The Clerk of Court is directed to enter judgment accordingly and close
4 this case. No other documents may be filed in this now-closed case. If Ferguson wishes to pursue
5 his claims, he must file a complaint in a new case and either pay the full filing fee or complete an
6 *in forma pauperis* application.

7 It is further ordered that Ferguson may move to reopen this case and vacate the judgment
8 by filing a motion for reconsideration of this order within 28 days of its entry. In this motion, the
9 Ferguson would need to explain that circumstances which led to him not being able to address the
10 matter of the filing fee as directed by the Court. If the Court finds there is good cause or a
11 reasonable explanation for the failure to update the address, the Court will reopen the case and
12 vacate the judgment.

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14 **DATED:** May 5, 2025.

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17 **RICHARD F. BOULWARE, II**
18 **UNITED STATES DISTRICT JUDGE**
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